



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

**DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
Attn: Mandatory Review, MC 4920 DAL
1100 Commerce St.
Dallas, TX 75242**

501.07-00

Date: June 13, 2012

Number: 201240025
Release Date: 10/5/2012

Employer Identification Number:
Person to Contact/ID Number:
Contact Numbers:
Voice:
Fax:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED #

Dear :

In a determination letter dated July 19XX you were held to be exempt from Federal income tax under section 501(c)(7) of the Internal Revenue Code (the Code).

We have determined you have not operated in accordance with the provisions of section 501(c)(7) of the Code. Accordingly, your exemption from Federal income tax is revoked effective January 1, 20XX. This is a final adverse determination letter with regard to your status under section 501(c)(7) of the Code.

We previously provided you a report of examination explaining why we believe revocation of your exempt status is necessary. At that time, we informed you of your right to contact the Taxpayer Advocate, as well as your appeal rights. On March 25, 20XX, you signed Form 6018-A, Consent to Proposed Action, agreeing to the revocation of your exempt status under section 501(c)(7) of the Code.

You are required to file Federal income tax returns on Form 1120. Those returns should be filed with the appropriate Service Center for all years beginning after December 31, 20XX.

You have the right to contact the Office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal Appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free, 1-877-777-4778, and ask for Taxpayer Advocate Assistance.

If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please contact the person whose name and telephone number are shown at the beginning of this letter.

Sincerely,

Nanette M. Downing
Director, EO Examinations

Internal Revenue Service
Tax Exempt and Government Entities Division
Exempt Organizations: Examinations
12301 Research Blvd
Building 4 Suite 270
Austin, TX 78759

Department of the Treasury

Date: March 16, 2012

LEGEND

ORG - Organization name

XX - Date Address - address

ORG

ADDRESS

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

Certified Mail – Return Receipt Requested

Dear :

We have enclosed a copy of our report of examination explaining why we believe revocation of your organization's exempt status is necessary.

If you do not agree with our position you may appeal your case. The enclosed Publication 3498, *The Examination Process*, explains how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

If you request a conference, we will forward your written statement of protest to the Appeals Office and they will contact you. For your convenience, an envelope is enclosed.

If you and Appeals do not agree on some or all of the issues after your Appeals conference, or if you do not request an Appeals conference, you may file suit in United States Tax Court, the United States Court of Federal Claims, or United States District Court, after satisfying procedural and jurisdictional requirements as described in Publication 3498.

You may also request that we refer this matter for technical advice as explained in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*. If a determination letter is issued to you based on technical advice, no further administrative appeal is available to you within the IRS on the issue that was the subject of the technical advice.

If you accept our findings, please sign and return the enclosed Form 6018, *Consent to Proposed Adverse Action*. We will then send you a final letter revoking your exempt status. If we do not hear from you within 30 days from the date of this letter, we will process your case on the basis of the recommendations shown in the report of examination and this letter will become final. In that event, you will be required to file Federal income tax returns for the tax period(s) shown above. File these returns with the Ogden Service Center within 60 days from the date of

this letter, unless a request for an extension of time is granted. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Nanette M Downing
Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Form 6018
Report of Examination
Envelope

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended December 31, 20XX

LEGEND

ORG - Organization name XX - Date State - state

ISSUE

1. Does the organization, ORG, continue to qualify for exemption under IRC section 501(c)(7)?

FACTS

ORG (herein after referred to as the ORG) was incorporated in the State of State on December 23, 19XX. The ORG was determined to be exempt from Federal income tax under section 501(c)(7) of the Internal Revenue Code on July 15, 19XX. According to the articles of incorporation, the purpose of the corporation is "to engage in all activities necessary, useful, or expedient to further skin and scuba diving; to educate, equip and train skin and scuba divers in techniques and safety; and to further the sciences involved in diving and oceanography, all of this to be done in a social and fraternal atmosphere".

The ORG has five classes of members: Single, Family (2 or more living in the same household), Lifetime (recognized by the board for their service, have the same voting rights), Honorary (not required to pay dues, and have no voting rights) and Scholarship (not required to pay dues, and have no voting rights).

The ORG allowed members and nonmembers to attend the scuba diving trips. The ORG received income from nonmembers from the scuba diving trips. There were 5 scuba diving trips scheduled during the 20XX year. See attachment A for a breakdown of the trips and the nonmember income.

LAW

Internal Revenue Code (IRC) section 501(c)(7) provides that clubs organized for pleasure, recreation, and other nonprofitable purpose, which substantially all of the activities are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder are exempt from tax.

Treasury Regulation section 1.501(c)(7)-1 states that the conduct of business activities, including public use of a club's social and recreational facilities, is incompatible with exemption. It has not yet been changed to reflect the amendment to P.L. 94-568.

Revenue Procedure 71-17 sets forth guidelines for determining the effect gross receipts derived from use of a social club's facilities by the general public have on the club's exemption from Federal income tax under section 501(c)(7) of the Internal Revenue Code of 1954. These guidelines will be used in connection with the examination of annual returns on Forms 990 and 990-T filed by social clubs. This Revenue Procedure also describes the records required when

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended December 31, 20XX

nonmembers use a club's facilities and the circumstances under which a host-guest relationship will be assumed, which are relevant both for purposes of determining adherence to the exemption requirements and for computing exempt function income under section 512(a)(3) of the Code.

This Revenue Procedure allows social clubs to receive up to 35% of their gross receipts, including investment income, from sources outside their membership without losing their exempt status. Within this 35%, no more than 15% of gross receipts may be derived from nonmember use of club facilities and/or services. Gross receipts are defined for this purpose as those receipts from normal and usual activities that have been traditionally conducted by the club or by other social and recreational clubs of the same general type. For example, in the case of country clubs, gross receipts include receipts from activities traditionally conducted by country clubs. Unusual amounts of income, such as from the sale of a clubhouse or similar facility are not to be included in either the gross receipts of the club or in the permitted 35 or 15 percent allowances. It should be emphasized that gross receipts from the conduct of a nontraditional business or other activity previously forbidden may not be included within the percentage guidelines. The conduct of a business not traditionally carried on by social clubs unless it is insubstantial, trivial, and nonrecurrent, should preclude exemption.

Section 4.04 of Revenue Procedure 71-17 provides that if a club fails to maintain or make available the records required by Revenue Procedure 71-17, the percentage guidelines may not be used in the determination of whether the club has a non-exempt purpose. If the records are unavailable, then the club's income may be considered to be from nonmembers, and its exempt status could be in jeopardy. Even if the amount of nonmember income does not exceed either of the limitations, the club's nonmember income is still included in the computation of unrelated business taxable income.

IRC section 512(a)(3)(A) provides that in the case of organizations described in paragraph (7) of section 501(c), the term "unrelated business income" means the gross income (excluding any exempt function income, i.e. income from dues, fess, charges, or similar amounts paid by members of the organization), less the deductions allowed by this chapter which are directly connected with the production of the gross income.

TAXPAYER'S POSITION

The ORG has agreed with our proposed revocation because of the fact that they are no longer in operation, and were planning to terminate within the year.

GOVERNMENT'S POSITION

Revenue Procedure 71-17 allows social clubs to receive up to 35% of their gross receipts, including investment income, from sources outside their membership without losing their exempt

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended December 31, 20XX

status. Within this 35%, no more than 15% of gross receipts may be derived from nonmember use of club facilities and/or services. Gross receipts are defined for this purpose as those receipts from normal and usual activities that have been traditionally conducted by the club or by other social and recreational clubs of the same general type. The conduct of a business not traditionally carried on by social clubs unless it is insubstantial, trivial, and nonrecurrent, should preclude exemption.

As shown in Attachment A, the income from nonmembers was significantly higher than the allowed 15%, for the year ending December 31, 20XX. The nonmember income was received for travel services for the scuba diving trips.

Since the ORG received over 15% of gross income from nonmembers, it is the Government's position that the ORG does not meet the requirements to be exempt from tax under IRC section 501(c)(7), see Treasury Regulation section 1.501(c)(7)-1.

CONCLUSION

Based on the foregoing reasons, the ORG does not qualify for exemption under section 501(c)(7) and it is the Government's position that its tax exempt status should be revoked.

The ORG has agreed with the proposed revocation for exemption under IRC section 501(c)(7), by signing Form 6018-A on March 25, 20XX.